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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,458	03/15/2004	Dwight Eric Kinzer	KINZ-005	2657
7590 10/17/2005			EXAMINER	
Dwight Eric Kinzer 3044 34th St S.W. Fargo, ND 58103			VAN, QUANG T	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/801,458

Applicant(s)

KINZER, DWIGHT ERIC

Examiner

Quang T. Van

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election without traverse of Group I (claims 1-21 and 27) in the reply filed on 9/27/2005 is acknowledged. Non-elected claims 22-26 are withdrawn from consideration.

Information Disclosure Statement

2. The information disclosure statement filed 3/15/2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. In this case, the Non-Patent Literature DUNCAN, G., ("Enhanced Recovery Engineering, including well design, completion and production practices," in: World Oil. March 1996, pages 86-90) does not provide a legible copy. Therefore, it has not been considered at this time.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-15, 17-21 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Flugstad et al (US 2002/0047009). Flugstad discloses a variable frequency automated capacitive radio frequency dielectric heating system comprising subjecting said medium to an alternating current electrical field generated by a radio

frequency waveform applied at a predetermined frequency range that heats said medium (page 21, par. 0311, lines 8-10); measuring an effective load impedance initially dependent upon the impedance of said medium (page 21, par. 0311, lines 11-12); comparing said effective load impedance with an output impedance of a signal generating unit that generates said radio frequency waveform (page 21, par. 0311, lines 13-15); and automatically adjusting said effective load impedance to match an output impedance of said signal generating unit (page 21, par. 0311, lines 16-17). Further it is inherent that food is hydrocarbonaceous material.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flugstad et al (US 2002/0047009) in view of Bridges et al (US 4,645,004). Flugstad discloses substantially all features of the claimed invention except said hydrocarbonaceous matter in said medium is contained in a subterranean environment. Bridges discloses a hydrocarbonaceous matter in said medium is contained in a subterranean environment (col. 2, lines 24-46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Flugstad a hydrocarbonaceous matter in said medium is contained in a subterranean environment as taught by Bridges in order to produce hydrocarbonaceous utilize in situ heating of earth formation.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

QV

QV
October 7, 2005

Quang T Van

Quang T Van
Primary Examiner
Art Unit 3742